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THE POLITICAL PHILOSOPHY OF JOHN LOCKE.

THE restoration of the Stuarts to the throne of England in 1660 signified the failure of the Puritan Parliamentary party as a party of construction; but it did not signify the disappearance of the ideas, either theoretical or practical, upon which the movements of the preceding two decades had been based. After the first surge of violent reaction had exhausted its force, the ancient friction between crown and Parliament, between law and prerogative, assumed once more the first place in the general political situation, and with it was renewed the strife between the established church and the nonconforming sects. Charles II, by becoming the shameless dependant of Louis XIV, succeeded in evading the direct issue with Parliament over taxation upon which his father lost the throne; but James II, less ignoble if also less shrewd than his brother, precipitated the revolution upon the religious and ecclesiastical issue.

The cardinal fact in the adjustment which settled the restored king firmly upon his throne was the strict alliance of the established church with the crown. Both institutions had suffered the last degree of indignity at the hands of the Puritans, and a union for security against the recurrence of such an experience was instinctive. Hence, at every manifestation of a tendency in Parliament toward limitation of the royal authority, the king could count on the blind and unwavering support of the bishops in the House of Lords and of the lower clergy in the constituencies of the Commons, with the doctrine of divine right and passive obedience as the foundation of all relations between monarch and subject. The reign of Charles II was indeed the culminating point of this doctrine in England. Not in the rationalistic form in which Hobbes had displayed it, but in the full obscurantist spirit that had characterized the days of Laud, and that also characterized contemporary thought at the court of Louis XIV, the duty of unresisting submission to the Lord's Anointed was kept before the English people in copious

floods of sacerdotal literature. Every effort of that party in Parliament which was coming to be known as the Whigs, to liberalize the existing institutions of either state or church, was met by the obstinate resistance of the ecclesiastics. The University of Oxford, the historic home of extreme royalism, formulated in convocation in 1683 a condemnation of "certain pernicious books and damnable doctrines destructive to the sacred persons of princes, their state and government, and of all human society," and from this document may be readily gathered the substance of the Tory creed of the day.¹ Among the doctrines thus condemned were that of the origin of civil government in popular contract of any sort; every aspect of the right of resistance to a king, whether he violated the laws of God, the laws of the land, or any other prescription; and Hobbes' whole doctrine of the state of nature and the origin of government in the self-interest of the individual. It was in connection with the sharp conflict of parties in the latter days of Charles II that Sir Robert Filmer's *Patriarcha* was published in 1680, and the popularity which it obtained is convincing evidence that the doctrines which it embodied were those dominant among the English people of the day. Until the death of Charles II, the alliance of church and crown stood firm, despite the strain often put upon it by the Catholicizing tendency of the king. Only because James II deliberately disrupted this alliance and alienated the church from his cause, did the revolution of 1688 become possible.

The chief bond which united the church to the king was, as has been shown above, a common fear and hatred of the Puritan dissenters of all shades, who had been responsible for the destruction of the old royal and ecclesiastical order. Of almost equal importance in the view of the church, but far less important in the mind of the king, was the ancient danger from the Catholics. The stringent legislation which was enacted against nonconformists was aimed by the ecclesiastics against Protestants and Catholics alike, but its administration was tempered by the king to the Catholics particularly. Gradually, as time passed on, the Protestant dissenters, proving

¹ For the text see Cooke, *History of Party*, vol. i, p. 346.

themselves entirely peaceable and embracing notoriously a very large element of useful and prosperous citizens, ceased to excite so strong feelings of fear and hatred in the church party; and, on the other hand, the obvious inclination of the king to tenderness toward the Catholics made the latter the chief object of dread. The solution which was proposed by the liberal spirits of the opposition party for the complex relations of the various sects was a general toleration of religious belief. This, it was claimed, was the only possible method by which peace and order could be permanently insured without loss of valuable strength to the nation. The church party was disposed to some measure of toleration of Protestant dissenters but feared any concession to Catholicism; and the king, lukewarm toward any relief for the Protestants, was willing to go far in indulgence to the Catholics. Through this play of cross purposes toleration utterly failed in Parliament, but the king through his executive discretion was able to ease greatly the burdens of those whom he especially favored.

James II, ascending the throne an avowed Catholic, assumed an aggressive attitude of tolerance for all Protestant sects, endeavoring to win the Protestant dissenters to his support in a policy which was clearly seen to be designed particularly for the benefit of the Catholics. The unnatural alliance which he aimed at was very quickly shown to be impossible. Much as churchmen and dissenters disliked each other, the feeling was affection itself in comparison with the hatred which both felt for the Catholics. James, forging recklessly ahead in his blundering way, pushed to its limit the claim that for the benefit of his realm his prerogative could supersede established law. This old issue, substantially the same as that on which Charles I had lost his throne and his life, roused to full intensity the spirit of opposition among the maintainers of the parliamentary tradition, now to be found chiefly in the Whig faction, and to a considerable extent among the dissenters. But the opposition might still have been ineffective had not the church party, in terror of a Catholic régime, dropped their doctrine of passive obedience and joined in resistance, in some cases passive and in some cases active. This change produced

that unity in the nation which caused the flight of the king and the accession to power of William and Mary.

Both in the process through which the crown was actually transferred from the old to the new wearers, and in the legislation through which the process was validated, the triumph of the parliamentary over the royalist principle was made perfectly evident. An irregularly constituted but clearly representative convention of leading politicians transacted the business through which the Prince of Orange and his wife were seated upon the throne, and this same convention, assuming the name and functions of Parliament, enacted the laws which in most explicit terms set limits to the royal power. By the Bill of Rights the power to suspend or dispense with the execution of the laws and the power to levy money without a vote of Parliament were declared illegal, and a number of rights which had been claimed for citizens against the crown by the Whig opposition were formally guaranteed. The statute, moreover, declared William and Mary to be the holders of the royal power, and thus made their title formally a parliamentary title; and, if not in words, at least by unquestionable implication their tenure of the throne was made conditional on the maintenance of those rights and liberties which the act defined. On the other hand, the principle of toleration not only was not recognized but was flatly repudiated by a series of most ingeniously oppressive acts against Catholics. For Protestant dissenters, however, some slight tendency to concession was manifested, and thus freedom of conscience, for Protestants at least, secured a precarious foothold in the law of the land.

Relation of Locke to Contemporary Theory and Practice

With the Restoration of 1660, the crude and fantastic social and political doctrines which had been preached during the Commonwealth by the Levelers disappeared from the literature and in great measure from the thought of the time. Under the new conditions only the defenders of monarchic divine right were privileged to indulge in absurd and irrational dogmatizing. The religious sects whose creeds had been both the strength and the weakness of the Commonwealth settled down

under the persecution of the triumphant Anglican establishment into peaceful communities of worshippers, with no more desire than opportunity to assert any principle of political theory. Independents, Baptists and Quakers, as well as the more aristocratically disposed Presbyterians, manifested little or no interest in any phase of politics, save the possibility of some measure of toleration for their cherished creeds. After certain well-intended efforts of liberal-minded Anglicans to bring the less extreme dissenters again within the church had proved futile, the idea gained headway among the nonconformists that a general freedom of conscience would be the only solution of the existing difficulties. William Penn deliberately adopted the principle in its most advanced form in his government of Pennsylvania; and the proprietors of South Carolina, some years before Penn's action, included a modified form of the principle in the frame of government constructed for their province.¹ That Locke himself framed the Carolina constitution is sufficient indication of his entire sympathy with the movement toward toleration. Though steadfast in the communion of the established church, his philosophy placed him always with those who held religious belief to be no rightful subject for governmental supervision.

While freedom of conscience, which had been a prominent feature of political theory in the days of the Commonwealth, thus continued to play a rôle among conservative thinking men, the most distinctive dogma of the Commonwealth period, that republican was preferable to monarchic government, found practically no expression after the Restoration save among the more wild and lawless spirits who were concerned in the intrigues that centered about the Rye-House plot.² The opposition to the last two Stuart kings and their policy was led by men of rank and property, belonging to the higher social strata and destitute of all sympathy with the aims and methods of the Levelers or even of the moderate Republicans. They held in general to the idea of popular sovereignty as distinct

¹ Fundamental Constitutions, sections 97-110.

² For a good sketch of the thought of this period, see Gooch, *English Democratic Ideas in the Seventeenth Century*, chap. x.

from monarchy by divine right, but in respect to the form of government their purpose was to restrict the monarch rather than do away with him. A limited monarchy rather than a commonwealth was their ideal; they were not Republicans but, in the sense that history has attached to the name, they were Whigs. It is this class which the philosophy of Locke preëminently represents. He cast their ideas in the mold of well-rounded theory, while they themselves for the most part guided their policy from day to day by the requirements of fluctuating expediency.

Of all the opponents of the royal power in the later days of Charles II, when party feeling ran highest, one of the most scholarly and philosophical in temperament was Algernon Sydney, who was executed for treason in 1683. His *Discourses Concerning Government*, published after the Revolution of 1688, embodied an elaborate attack on the doctrines of the court party. His text was Filmer's *Patriarcha*, which he subjected to a refutation, step by step. The form which his work takes in consequence of this method leaves his constructive theory very vague and uncertain. He has generally been described as a "Republican," but there is hardly more reason to apply that term to him than to Locke. What appears entirely clear is his doctrine that government is an institution created by men for their own security and interest, and that it rests upon no prescription of either God or nature save in the sense that such prescriptions are involved in the conclusions of human reason. Authority rests on consent, and the holder of authority over man has no basis for the exercise of his power save the agreement of the subjects for their own ends to respect it. Sovereignty, therefore, is indefeasibly in the people, Sydney holds, and the administration of government, whether in the hands of a monarch or of any group of men, is subject to an overruling popular control. That the monarchic form of government is on the whole not well adapted to secure the ends for which authority is instituted, is clearly enough Sydney's opinion; but on the other hand his dislike for democratic government is no less clear. His preference is obviously for aristocracy, and this is in line with the whole spirit of his thought, which is saturated with the influ-

ence of classical antiquity. His *Discourses* display an enormous amount of historical erudition, with special predilection for the Roman Commonwealth, and at many points both the substance and method of his thought closely parallel Machiavelli's *Discorsi*.¹ He is, however, distinctly less broad in his philosophy than Machiavelli; and in this respect he is far behind Locke also, with whose doctrines he is in substantial accord.

Locke, born in 1632, was the son of a Puritan soldier, received his education when the schools and universities were under Puritan influence, and became closely associated in early manhood with that brilliant and liberal-minded, if unscrupulous and erratic, Earl of Shaftesbury who was the founder of the Whig party. All these circumstances combined with his temperament to make Locke alien to the controlling ecclesiastical and political forces during the last Stuart reigns. At the same time he had no sympathy with the extremist doctrines and tendencies among the Whigs. Late in the reign of Charles II, however, he fell under suspicion and was obliged to seek safety in Holland, where he remained until the expulsion of James II. Returning then to England, he published for the first time the works on which his philosophical fame rests. His *Two Treatises of Government* embodied in purely scientific form the justification of the Revolution. The *Letter Concerning Toleration* set forth a theory of the particular relations between church and state which Locke conceived to be sound, though it was one which the existing conditions did not permit to be adopted by the triumphant revolutionary party. Of his *Two Treatises of Government*, the first follows precisely the method of Sydney in refuting step by step the arguments of Filmer's *Patriarcha*, the second goes far in advance of Sydney by presenting a coherent, systematic, constructive theory of state and government. Although there is in Locke's theory little that had not long been current coin in political philosophy, the form and spirit in which it is presented and the far-reaching influence

¹ Cf. Sydney's *Discourses*, chap. ii, sections 22, 23. He argues that the city, like the child must not remain in its original weakness. "If it do not grow it must pine and perish; for in this world nothing is permanent: that which does not grow good will grow worse."

which it exerted must justify a somewhat careful analysis of his work.

The State of Nature and Natural Rights

In explaining the origin of political authority, Locke adopts the same individualistic point of view that Hobbes had taken, and starts with a conception of the state of nature; but it is not the original Hobbesian doctrine so much as Pufendorf's modification of it that is presented by the Whig philosopher. The state of nature as conceived by Locke is a pre-political rather than a pre-social condition. It is not a state in which men live in brutish reciprocal hostility, but one in which peace and reason prevail. It is not a lawless state. Rejecting the incisive distinction made by Hobbes between the law of nature and real law, Locke follows the Grotian doctrine and declares the law of nature to be a determining body of rules for the conduct of men in their natural condition. Under this law, of which reason is the interpreter, equality is the fundamental fact in men's relations to one another. On this foundation Locke constructs his doctrine as to the natural rights which belong to every man in the pre-political state.

These natural rights are summed up under the formula which had become common during the Puritan Revolution, *i. e.*, life, liberty and property.¹ The preservation of life is the most primary motive of human action, and whatever is reasonably directed to this end is every man's privilege by the law of nature. Locke does not differ from Hobbes on this point. As to liberty, on the other hand, Locke departs from his predecessor and defines it as exemption, not from every rule save the individual's arbitrary caprice, but from every rule save the law of nature. This law is conceived, thus, not as a limitation upon human freedom, but as an essential concomitant of it; and slavery, in the full sense of the word, is merely the condi-

¹ By broader generalization Locke seeks to group all three of these terms under the single concept of "property." See *Treatises of Government*, ii, sec. 87: "Man . . . hath by nature a power . . . to preserve his property; that is, his life, liberty and estate . . ." Cf. sec. 123. On the other hand the phrase is sometimes expanded to include "health;" *e. g.*, "life, liberty, health, and indolency of body and the possession of outward things." Letter concerning Toleration; also *Treatises*, ii, sec. 6.

tion of one who, by violating the law of nature, has withdrawn himself from its protection; that is, one who has been made captive in a just war.¹ Property right under the law of nature includes control over all extraneous objects through which the maintenance of life may be promoted. Locke sets forth in a long chapter² his famous theory as to the rational basis of private ownership. The essence of his doctrine is that, while primarily all things are common to all men, as soon as any individual has incorporated his labor in any particular object he has made it his particular property.³

The state of nature, then, is conceived by Locke as characterized by the consciousness of and respect for those natural rights which are the substantial elements of the law of nature. It is by no means to be identified with the state of war, as had been done by Hobbes. This latter state means simply the condition that exists when men have from any motive abandoned the prescriptions of reason and resorted to violence. The state of war may exist as well in civil society as in the natural state of man, and it does appear whenever attempts are made upon one's life, liberty or property by force. But the state of nature and the civil state are differentiated by a single clear test. In the former there is not and in the latter there is a common organ for the interpretation and execution of the law of nature. Though this law be implanted in the hearts and minds of all men, yet differences of intelligence and conflicts of interest will cause disputes even among those most bent on submission to nature's rule. Every individual is vested originally with the full right to execute the mandates of this law.

¹ Locke does not recognize any validity in the contract theory of slavery. One who is in the absolute power of another man cannot, in the philosopher's opinion, make a contract. *Treatises*, ii, secs. 22-24 and 172. ² *Ibid.*, ii, chap. v.

³ "Although the earth and all inferior creatures be common to all men, yet every man has a 'property' in his own 'person.' This nobody has any right to but himself. The labor of his body and the 'work' of his hands, we may say, are properly his. Whatever, then, he removes out of the state that nature hath provided and left it in, he hath mixed his labor with, and hath joined to it something that is his own, and thereby makes it his property. It being by him removed from the common state nature placed it in, it hath by this labor something annexed to it that excludes the common right of other men." *Ibid.*, ii, sec. 27.

Each may justly slay the unjust slayer or visit justice upon the kidnapper or the thief. But variety in manner and method of the enforcement of justice inevitably causes confusion and uncertainty in life, and there is need of a known and certain rule in accordance with which the rights of individuals are to be protected and maintained. It is to secure such a rule that civil society is instituted.

Locke's state of nature, then, like Milton's, means nothing more than the relation which exists among men who have no common political superior. Independent sovereigns illustrate this state; a Swiss and a Frenchman meeting each other in the woods of America illustrate it; and it is illustrated again by an absolute monarch and his so-called subjects, since, as Locke points out, there exists no common authority for determining the application of the law of nature as between them. Although this conception differs fundamentally from that of Hobbes, and though Locke at first rejects entirely the notion of the war of each against all, yet in the end he concedes that, owing to the weakness and viciousness of the majority of men, the natural state is intolerable.¹ Thus he comes to the process through which the evils are escaped by the substitution of civil for natural society.

The Social Contract

Locke's form of the contract through which civil society is created coincides with the first of the two stages which Pufendorf finds in the institution of the state. Each individual contracts with every other to unite into and constitute a community. The end for which this agreement is made is the protection and preservation of property in the broad sense of the word—that is, life, liberty and estate—against dangers both from within and without the community. The contract involves an agreement by each individual to give up his natural right of executing the law of nature and punishing offenses against that law. Each resigns, not all his natural rights, as Hobbes held, but merely this single right. This right, moreover, is given up, not to any particular person or group of persons, but to the com-

¹ Treatises, ii, chap. ix.

munity as a whole. The society thus becomes, by the act of the individuals who form it, vested with the functions of determining what are offenses against the law of nature and punishing violations of that law; and these functions constitute, in Locke's view, the whole scope of political authority. There is in this conception nothing of that absolute, unlimited and uncontrollable sovereignty which was the soul of Hobbes' system. All the natural rights of the individual remain as secure against the power of the community as they were in the state of nature against the power of other individuals.

Two corollaries are deduced by Locke from the idea that civil society originates as above. The first of these is the right of majority rule as the principle of the community's action. That the will of the majority must bind the minority he regards as demonstrable both on the ground of sheer necessity, since without such rule corporate action would be impossible,¹ and on the ground of contract, since the agreement to submit to the will of the majority is an element in the social pact. His second inference is that the commonwealth is authorized by the individual to employ his force in executing its judgment as to the rights involved in the law of nature. That is to say, the individual has bound himself to contribute his force to carry out the decisions of the political authority which he has constituted.²

The origin of political societies through more or less formal contract Locke is inclined to consider an historical as well as a logical fact. The evils attending the natural state became obvious, he argues, very early in the life of the race, and the union of men into political organizations by general consent took place long before the invention of means for perpetuating

¹ The difficulty of the question seems to have interfered seriously with Locke's lucidity of expression in explaining this point: "For that which acts any community being only the consent of the individuals of it, and it being necessary to that which is one body to move one way, it is necessary the body should move that way whither the greater force carries it, which is the consent of the majority, or else it is impossible it should act or continue one body, one community, which the consent of every individual that united into it agreed that it should; and so every one is bound by that consent to be concluded by the majority." *Treatises*, ii, sec. 96.

² *Ibid.*, ii, sec. 88.

the record of the fact. To conclude that the state of nature and the pact of society had no existence, from the mere fact that no account of these phenomena is preserved, would be logically no more sound than to conclude that the soldiers of Xerxes were never children because we have no record of their childhood.¹ So far as historical accounts of the origin of commonwealths exist, they support, Locke maintains, the theory of contract. Rome, Venice and Sparta are fair illustrations of this, and the American Indians afford additional confirmation so far as existence in a non-political condition is concerned. The monarchies which history shows to be so characteristic of primitive times are, according to Locke, merely expressions of the importance of military leadership in those times and signify nothing as to the origin of the communities. Even the early patriarchal governments furnish so many instances of deviation from the strict hereditary succession that choice must have entered into the installation of rulers, and thus the agreement of the people must have come into play.

From the point of view of the individual, consent to membership in any political community may be, Locke holds, either express or tacit. The tacit consent is given by the mere act of remaining personally in the community or of holding property therein. One who unites with a society in this manner may, by ceasing his connection with the community, tacitly withdraw his tacitly given consent to fellowship with it; but one who has by express declaration given his consent to be a member of the commonwealth "is perpetually and indispensably obliged to be and remain unalterably a subject to it, and can never be again in the liberty of the state of nature unless by any calamity the government he was under comes to be dissolved."²

On the whole, Locke's doctrine as to the social contract embodies in its essential features nothing that had not been worked out by preceding philosophers. It does, however, give to the conception a high degree of definiteness, and it brings

¹ "It is with commonwealths as with particular persons. They are commonly ignorant of their own births and infancies; and if they know anything of it they are beholding for it to the accidental records that others have kept of it." *Treatises*, ii, sec. 101.

² *Ibid.*, sec. 121.

into peculiar prominence its individualistic implications. Where Hobbes and Pufendorf had analyzed the formula of political union in order to make governmental authority absolute, Locke labored primarily to establish its limitations. Of this difference there is impressive evidence in the fact that the conception of sovereignty, which the earlier writers were at such pains to elucidate, received only the most casual notice in his constructive treatise. The term itself he does not use at all, and the idea of unrestricted power in any human hands finds no place in his theory.¹ So far as sovereignty is predicated by Locke, in fact if not in name, of any political entity, it is ascribed to the collective body which is created by the social pact. Not as a part of the machinery of government, but as that which underlies government and becomes active only when government is dissolved, the "community" is held always to be the supreme power; and in last instance it is the "public will of the society" to which alone the members owe obedience. "The essence and union of society" consist, Locke holds, in "having one will,"² and supremacy therefore belongs to that which is, in the fullest and most ultimate sense, the embodiment of this will. In a less ultimate sense the organ of the will, namely, the legislative branch of the government, is also designated by him as supreme.

Having accounted sufficiently for the sovereignty in the process through which political society comes into existence, Locke proceeds to the discussion of the institutions through which the ends of political society are actually attained—the institutions, that is, of the government as distinct from the state. Though philosophizing always with pretty obvious reference to the conditions in England, he develops nevertheless in connection with this part of his subject certain principles that are distinctly original in conception and that have been very influential in later application.

¹ "Absolute arbitrary power without settled standing laws, can neither of them consist with the needs of society and government." *Ibid.*, ii, sec. 127.

² *Ibid.*, ii, secs. 151, 212. In these passages Locke adumbrates Rousseau's famous hypothesis of the *volonté générale*.

Government and the Separation of Powers

The ends for which civil and political society is constituted being perfectly definite, the means for the attainment of those ends are, according to Locke, correspondingly definite. Life, liberty and property are to be made secure, first, by providing a standard interpretation of the law of nature which fixes those rights; second, by providing an impartial authority to apply this interpretation as between individual members of the given community; and third, by providing for the employment of the force of the community for the execution of this authority and for security against other communities. The only interpretation of the law of nature which can at all accomplish its purpose is that which is embodied in fixed and general rules applicable uniformly to all the members of the given society. An interpretation by arbitrary decrees for each question as it arose, no matter from how august a source the decrees might emanate, would make civil life indistinguishable from that in the state of nature, since uncertainty would prevail as to the precise extent to which life, liberty and property were secure, and this is the very fact that makes the state of nature intolerable and drives men to escape from it.¹ Legislation—the formulation of the rules according to which man's natural rights are to be judged—is therefore the fundamental and primary function of government.

Logically secondary to this function, but practically quite as indispensable, is that of enforcing by penalties the prescriptions embodied in the laws. This is the executive side of governmental activity. Distinguishable from this again, because concerned with problems characteristic of a state of nature rather than a civil state, is the function of maintaining the interests of the community, or of its individual citizens, in relation to other communities and other citizens; and for this phase of governmental duty Locke suggests the name *federative*.²

¹ Treatises, ii, sec. 136.

² "This contains the power of war and peace, leagues and alliances, and all the transactions with all persons and communities without the commonwealth, and may be called *federative* if any one pleases. So the thing be understood, I am indifferent as to the name." *Ibid.*, ii, sec. 146.

As the legislative is the supreme power in the government, the various forms of government are distinguished solely by the location of this power. If the community as a whole retains in its own hands the making of laws and merely designates magistrates to execute them, the government is a democracy. If the community by a majority vote places the lawmaking power in the hands of a few select men, or of a single individual, the form is oligarchy or monarchy respectively; and the particular terms by which the exercise and transmission of the power are regulated account for the various mixed forms that are known to political speculation. With all the possibilities of variety in forms of government, no possibility is recognized by Locke of more than one species of state, or "commonwealth," as he prefers to call it.¹ The body politic which is constituted by the social pact is the only entity to which the term state or commonwealth, as distinct from government, can be applied. This idea, in the form in which Locke works it out, is a novelty in political philosophy. The nearest approach to it in earlier systematic thought is probably the doctrine of popular sovereignty that was formulated by Althusius.

Another feature of his exposition of government in which Locke, though influenced obviously enough by the actual conditions in England, is nevertheless on new ground so far as theory is concerned, is that in which he sets forth the doctrine of the separation of powers.² The making of laws and the execution of them are functions, he argues, that make very different demands upon those to whom they are respectively intrusted. The legislature may do all its work in a relatively little time, while the executive must be always on duty. Hence the two functions may properly be assigned to distinct organs. Moreover, it is unwise to give to those who make the laws the duty of executing them, because "they may exempt themselves from obedience to the laws they make and suit the law, both in its making and its execution, to their own private wish, and

¹ "By 'commonwealth' I must be understood all along to mean, not a democracy or any form of government, but any independent community, which the Latins signified by the word '*civitas*.'" *Ibid.*, ii, sec. 133.

² *Ibid.*, ii, ch. xii.

thereby come to have a distinct interest from the rest of the community, contrary to the end of society and government." For both these reasons the two powers are in distinct hands "in all moderated monarchies and well-framed governments."¹ Between the executive and the federative functions, also, there is a marked distinction in kind, which would suggest that they be entrusted to different organs. But this is not done, Locke says, because each requires the armed force of the community for its action, and evil results would follow if the command of this force should be divided.

The constitution and interaction of the legislative and executive organs are discussed by Locke in terms of perfect generality, but nevertheless with obvious reference to the controversies in English politics. The legislative power should be vested, he thinks, in a number of persons who exercise it when they are duly assembled together, but become subject to the laws they have made as soon as they have separated; "which is a new and near tie upon them to take care that they make them for the public good." Where one element of the legislative body consists of representatives chosen by the people, it must be presumed that the people intend that the representation should be fair and equal; therefore, Locke argues, the absurdities of rotten boroughs may properly be abolished by executive power pure and simple, though in all other respects he is of course a particularly strong anti-prerogative man.²

As between the legislative and the other organs of government, he holds that the former is necessarily supreme. It is the instrument through which the will of the society is expressed, and the expression of this will necessarily precedes and determines the execution of it. Though the holder of the chief executive power may be at the same time one element in the legislative, and though by custom or expediency he may

¹ Treatises, ii, sec. 159.

² "To what gross absurdities the following of custom, when reason has left it, may lead, we may be satisfied when we see the bare name of a town, of which there remains not so much as the ruins, where scarce so much housing as a sheeppcote or more inhabitants than a shepherd is to be found, sends as many representatives to the grand assembly of law makers as a whole county numerous in people and powerful in riches." *Ibid.*, ii, sec. 157.

be vested with important functions in connection with the actual work of the legislature, yet these facts cannot be interpreted as exalting the executive above the legislative power. All the various issues that were conspicuous in the long struggle in England, are resolved by Locke in favor of the contentions of Parliament.¹

As to Locke's treatment of the separation of powers, it is to be observed that he merely suggests the principle as useful in determining the relations of legislature and executive. The tripartite separation which is familiar to-day, and the justification of this separation on the ground of the mutual checks which it calls into play, have no place in the speculation of Locke, but owe their development to the genius of the Frenchman who so effectively expanded the English philosopher's suggestion.

The Right of Revolution

For more than a century before Locke wrote, one of the chief problems of political philosophy had been to discover an ultimate and unquestionable embodiment of governmental authority from whose will no appeal could righteously be made. A determinate human sovereign had been the logical goal of all the anti-revolutionary writers—a man or body of men, forming part of the machinery of government, whose expressed will, being law, was in both the legal and the moral sense binding upon every member of an organized society. Bodin, Hobbes and Filmer had all worked with this aim, and they had defended their preference for monarchy on the ground that doubt and uncertainty as to what was really the sovereign's will were less likely when the sovereign was an individual than when it was a group of individuals. Locke, while following these thinkers in their doctrine of the supremacy of law as the essential element in governmental organization, refuses to recognize in any determinate human organ an incontrovertible law-making authority. He rejects, in other words, the conception of sovereignty as it had been developed by Hobbes and lapses back into the vagueness and uncertainty of the Grotian school of thinking.

¹ *Ibid.*, ii, ch. xiii.

That Locke has no far-reaching theory of sovereignty is suggested by the fact, already mentioned, that the term itself is not used in his systematic work. As the conventional and indeed strictly official designation of the authority that attaches specifically to a monarch, its implications are of course such as the philosopher is careful to avoid. The question as to where the "supreme power" in the commonwealth rests is, nevertheless, raised and discussed at length. As between the different departments of the government, the legislative is, as we have seen, held to be necessarily supreme. Its supremacy does not mean, however, anything like absoluteness. The legislature is limited by the ends for which the civil society is constituted and has no more power than that which is given up by the individual in the social compact. It is bound, therefore, to rule according to the law of nature, to carry on its functions through fixed and general laws rather than arbitrary decrees, and in particular to abstain from taking property without the consent of the owner.¹ Furthermore, the legislative organ, because its authority is merely delegated by the people, cannot transfer its authority to other hands. This conception of a governmental power which, while not absolute, is nevertheless supreme in relation to other governmental powers, is sufficiently intelligible; but the extreme stress laid by Locke upon the subordinate nature of the executive is hardly consistent with the scope of prerogative which he himself allowed to the executive or with the remarkable doctrine that the executive may remodel a legislature that has ceased to be representative of the people.²

Behind this "supreme" legislature stands the more ultimate embodiment of power, the people. Legislative authority is but a trust to be employed for the needs for which civil society is

¹ Treatises, ii, ch. xi: "Of the extent of the legislative power." This chapter involves much repetition and more or less that is inconsistent and illogical, indicating the writer's intentness on the end he has in mind rather than the means by which he is to attain it. His particular concern is to deny to the legislature unlimited authority over private property; and accordingly, after declaring as one limitation upon the legislature the law of nature, of which he has repeatedly shown the right of property to be substantially the chief feature, he enumerates the security of private property as another and distinct limitation. Sec. 138.

² *Supra*, p. 238.

constituted, and failure to fulfill this trust calls into action the supreme power of the people to remove or alter the legislature. "The community perpetually retains a supreme power of saving themselves from the attempts and designs of anybody, even of their legislators, whenever they shall be so foolish or so wicked as to lay and carry on designs against the liberties and properties of the subject."¹ But this overruling power of the people or the community or civil society, as he variously designates its possessor, is conceived by Locke as ordinarily dormant, becoming active only when the government is dissolved. It is a cardinal point in his system that government may be dissolved while society remains intact,² and he is logical in ascribing to the latter an authority above that of the former. But on the test question as to the precise ground and manner in which the society or "the people" is to supersede the government, Locke's answer is no more satisfactory than that of the multitude of popular sovereignty theorists who preceded him. Government is dissolved, he declares, when the legislature is so transformed as to bring the lawmaking power into hands other than those to which it was entrusted by the community at its organization, or when either legislature or executive acts contrary to its trust.³ But on the vital point as to who shall determine when these dissolving conditions exist, he has no more definite answer than "the people." No procedure is provided through which the judgment of the people on the issue is to be arrived at, though Locke appears to feel that no portion less than a majority will actually take any decisive step.⁴

This whole theory as to the power of society to displace the holders of governmental authority is of course merely one version of the so-called "right of resistance." Locke's phrase for designating this right is the "appeal to Heaven," which he regards as the privilege not only of the body of the people, but even of any single man. This seems hardly consistent with his earlier doctrine that the individual who expressly

¹ Treatises, ii, sec. 149.

² *Ibid.*, ii, sec. 211.

³ *Ibid.*, ii, secs. 212-221 *et seq.*

⁴ *Cf.* secs. 168 and 209.

makes himself a party to the social pact is irrevocably determined to be a member of the society and as such is concluded by the voice of the majority.¹ The necessary result of the one doctrine seems to be the permanence of social life; that of the other, anarchy. Locke, however, feels quite sure that the recognition of the "appeal to Heaven" does not from the practical point of view involve anarchy. "The people" are as a rule "more disposed to suffer than right themselves by resistance." Only when injustice and oppression have gone very far and have become obvious to a majority of the people will the "appeal to Heaven" actually be made. Both in the lack of logic in his theory and in his serene confidence in the moderation of those who may apply it, Locke manifests a spirit which in a most impressive way was characteristic of the Whig revolution that he was defending.

Locke's Place in the History of Political Theory

Regarded in his relation to the seventeenth century as a whole, Locke stands high in that group of thinkers who promoted the rationalistic idea of life—who preached that the earth and all the institutions thereof were made for man, not man for them; and that, whatever the importance of unquestioning faith in preparation for the life to come, the peace and comfort which were sought by man in the present life were to be secured only by the relentless application of reason to all the problems that might present themselves.

As between the two schools which divided the adepts of ethical and political philosophy, Locke belonged with Grotius rather than with Hobbes. As between Pufendorf and Spinoza, he was nearer to the former, although his definition of individual liberty is often singularly suggestive of the latter. As the works of Pufendorf and Spinoza had been before the world of scholarship for many years when Locke published his political writings, and as Locke was peculiarly familiar with current philosophy, there is no room to doubt that the many points of coincidence between his theory and theirs were the results of conscious adoption. Where he departs from his predecessors

¹ Compare secs. 97 and 121 with secs. 168 and 241.

and strikes out on new lines of thought, the conditions of English practical politics are in most cases clearly responsible.

The most distinctive contribution of Locke to political theory is his doctrine of natural rights. In this he takes the ideas of the Independents and gives them a fundamental position in his general system. Life, liberty and property he represents as inalienable rights of every individual. The peculiarity of his treatment of this familiar concept is in the definiteness with which these rights are made to appear as the concrete privileges of actual living men. In the law of nature as treated by Pufendorf, in the liberty that is eulogized by Milton and Spinoza, there is, despite the purpose of the writers to set up real barriers to despotism, a general effect of abstraction and unreality, or at best an impression that the immunity that is aimed at must be the privilege of very wise and exceptional men, not the right of every ordinary mortal. Locke's equal rights, on the other hand, are so inwrought in his explanation of political institutions as to appear indispensable to the very existence of an actual political community. The happiness and security of the individual figure not as essential to the existence of government, but as the end for which alone government is ever called into existence.

Freedom of worship is not included by Locke within the list of strictly natural rights. It is not one of those privileges of the individual for the defense of which government is instituted. His plea for toleration rests rather on the doctrine that the state has nothing whatever to do with forms of worship. The worship of God is a means to eternal salvation, and as such lies entirely outside the sphere of the state. The organization which takes care of that matter is the church, and the spheres of church and state are mutually exclusive. For his definition of a church Locke adopts in full the idea of the Independents. It is "a voluntary society of men joining themselves together of their own accord, in order to the public worshiping of God in such a manner as they judge acceptable to him and effectual to the salvation of their souls."¹ With such an extreme and uncompromising conception of religious society he has no dif-

¹ First Letter concerning Toleration.

ficulty in establishing its absolute distinction from a civil society, and in removing from the jurisdiction of the latter everything that pertains to the care of souls. The commonwealth, whose function is to provide for the material and temporal security of its members, is limited strictly to what concerns that matter and is bound by the nature of its being to permit men to seek their future salvation in any manner they choose. Not only Presbyterians, Independents, Anabaptists, Arminians and Quakers, but even Pagans, Mohammedans and Jews are by right entitled to the same civil privileges as those of the more orthodox manner of worship. The comprehensive toleration thus established by Locke is sustained by the same rationalistic reasoning that Milton had employed, and the only qualifications introduced are based on strictly political considerations: (1) there need be no toleration of opinions that militate against the existence of civil society or contravene the principles of morality on which society rests—a qualification that had been laid down by Spinoza; (2) no right of toleration can be claimed by a church so organized that its members are subject to another prince—a familiar principle on which Catholics were excluded; and (3) there is to be no toleration of atheists, since “promises, covenants and oaths, which are the bonds of human society, can have no hold on an atheist.”¹

In this doctrine of religious toleration Locke hardly reaches so advanced a point as that attained by Spinoza, or even by Milton, in their pleas for freedom of opinion. His purpose, indeed, is more restricted than theirs, and he strives only to make a case for freedom of worship, although a general toleration of expression is implied at some points in his argument. It is quite characteristic of Locke, however, to pause before reaching the extreme point in the logical development of a theme. Moderation and the avoidance of extremes is eminently his chief philosophical quality, showing themselves in the political as well as the other branches of his thinking. He has none of that confidence which Hobbes and Spinoza manifest in the capacity of the human intellect and judgment for the solution of all the problems that human conditions can suggest.

¹ First Letter concerning Toleration.

Probable truth rather than absolutely certain truth is the most extreme goal that he has in view in his general philosophy, and similarly a practical working system rather than an absolutely perfect one is the goal of his political philosophy. This was indeed the goal of the Revolution of 1688. The memory of many participants in the movement retained most vivid impressions of the consequences of extreme proceedings forty years earlier, and these men were successful in giving a wholly opportunist character to the Revolution. Locke's political theory corresponded to this Whiggish practical work. It was a theory that treated of a state of nature that was not altogether bad, and of its transformation into a civil state that was not altogether good by a contract which was not very precise in its terms or very definite in its sanction. It embodied, moreover, a conception of sovereignty of the people without too much of either sovereignty or people; of the law of nature without clear definition of either law or nature; of natural rights, but not too many of them; and of a separation of powers that was not too much of a separation. It concluded, finally, with a doctrine as to the right of revolution that left no guarantee whatever for the permanence of the rather loose-jointed structure which the rest of the theory had built up. Yet this illogical, incoherent system of political philosophy was excellently adapted to the constitutional system which England needed at that time and which the Whigs actually put and kept in operation. It was a good, respectable, common-sense view of the features of political life that impressed a philosophical observer; it was strong in the individual parts, if not in their correlation; and it was far better adapted to make an impression on thinking Englishmen than were the more logical systems of Hobbes and Spinoza. It was Locke's theory that was brought over, supported by the practical illustration of the accomplished revolution, to the Continent, where many of its elements were taken up and developed to their logical limits by the thinkers of France. The systems which resulted there in the revolutionary period are hardly more satisfactory, in the perspective of history at least, than the less coherent doctrine which was set forth by the Englishman.

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